

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In re: Baycol Products Liability Litigation

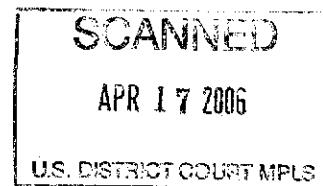
MDL No. 1431

This Document Relates to:

One Hundred Forty-Two (142) Branch Law Firm Cases listed as "Other Unacceptable PFS [Plaintiff Fact Sheet] submissions pursuant to PTO 81 Order w/ 12/8/04 deadline."

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jonathan Lebedoff dated March 28, 2005, recommending denial of Plaintiffs' Motion in Anticipation of Possible Dismissal Under PTO 81 and Reconsideration. Also before the Court is a motion for relief under Federal Rules of Civil Procedure 60(b) filed on behalf of the affected Plaintiffs by the law firm of Zimmerman Reed, PLLP. The Branch Law Firm moves to strike this motion for Rule 60(b) Relief.

Pursuant to statute, the Court has conducted a de novo review of the record. 28 U.S.C. § 636(b)(1); Local Rule 72.1(c). Based on that review the Court ADOPTS in part the Report and Recommendation, but will grant Plaintiffs limited relief as discussed below.



Throughout its management of this MDL proceeding, the Court recognizes that it has dismissed a great number of claims based on a plaintiff's failure to comply with discovery deadlines. The matter currently before the Court concerns such a failure to timely comply with discovery deadlines. However, the issues involved here are quite unusual, and require the Court to look beyond the simple issue of missed deadlines.

Here, local counsel has taken the unusual step of requesting that the Court allow them access to certain plaintiffs they believe have meritorious claims, and that the sanction of dismissal does not serve the ends of justice because the missed deadlines appear to have resulted from miscommunications between staff in the Branch Law Firm. The Branch Law Firm objects to the request of local counsel to the extent that local counsel is given access to certain plaintiffs, but appears to be in agreement that certain of the plaintiffs that are the subject of this motion have meritorious claims.

Because dismissal is a severe sanction under Fed.R.Civ.P. 37, and because it appears that failure to comply with the discovery deadlines rests solely with the Branch Law Firm, and because local counsel and the PSC have taken the unusual step of requesting the opportunity to directly assist in ensuring the discovery deadlines are met, the Court will grant the motion of Zimmerman Reed and the PSC as to those plaintiffs only identified by the Branch Law Firm in Exhibit 2 to their objections to the Report and Recommendation.

IT IS HEREBY ORDERED that:

1. Plaintiffs' Motion in Anticipation of Possible Dismissal Under PTO 81 and Reconsideration, in relation to "One Hundred Forty-Two (142) Branch Law Firm Cases listed as 'Other Unacceptable PFS (Plaintiff Fact Sheet) submissions pursuant to PTO 81 and Order w/ 12/08/04 deadline" is granted only as to those plaintiffs listed in the attached Exhibit.
2. The Motion of Zimmerman Reed and the PSC for Relief under Fed.R.Civ.P. 60(b) is granted as to those plaintiffs listed in the attached Exhibit.
3. Plaintiffs' Motion to Strike Zimmerman Reed and the PSC's Motion is DENIED.
4. Plaintiffs' Motion to Strike Defendant's Opposition is DENIED.

Date: APR 17 2006



Michael J. Davis
United States District Court

Other Unacceptable PFS submissions pursuant to PTO 81 Order w/ 12/08/04 deadline

No.	Plaintiff Name	MDL No.	Resident State	Docs Rec'd	Auths Rec'd/ Sign	PFS Signed	PFS Rec'd Date	Counsel
1.	Aceves, Elpidio	04-3585	CA	no	YES	YES	11/24/2004	Branch
2.	Apodaca, Joseph	04-3595	NM	no	YES	YES	12/08/2004	Branch
3.	Arandas, Teodolo	04-3585	CA	no	YES	YES	11/24/2004	Branch
4.	Ashton, Burton	04-3603	NC	no	no	YES	12/02/2004	Branch
5.	Austin, Joseph	04-3587	TX	n/a	no	YES	11/24/2004	Branch
6.	Bacharach, David, Jr.	04-3588	MA	no	YES	no	11/24/2004	Branch
7.	Banda, Norberta	04-3586	CA	no	YES	YES	11/24/2004	Branch
8.	Bare, Phyllis	04-3618	DE	no	YES	YES	12/02/2004	Branch
9.	Barnett, Sammie Dee	04-3587	TX	no	no	YES	11/24/2004	Branch
10.	Beacom, Jack	04-3623	MN	no	YES	YES	12/02/2004	Branch
11.	Beck, Barbara	04-3593	NC	no	no	YES	12/06/2004	Branch
12.	Bebnia, Daryoush	04-3587	TX	no	YES	YES	11/24/2004	Branch
13.	Benfield, Catherine	04-3614	MS	no	YES	YES	12/06/2004	Branch
14.	Bethell, RheaBa	04-3615	AR	no	YES	YES	12/05/2004	Branch
15.	Blackmon, Wanda	04-3593	NC	no	YES	YES	12/06/2004	Branch
16.	Bleeker, Lola	04-3586	CA	no	YES	YES	11/24/2004	Branch
17.	Bramon, Milton	04-3590	GA	no	no	YES	12/06/2004	Branch
18.	Brazel, Mary	04-3612	WA	no	YES	YES	12/08/2004	Branch
19.	Bridges, Virginia	04-3614	MS	no	YES	YES	12/09/2004	Branch
20.	Briggs, Robert	04-3591	SC	no	no	no	11/24/2004	Branch
21.	Brosch, Melba	04-3592	TX	no	YES	no	11/24/2004	Branch
22.	Bryan, Kenneth	04-3587	TX	no	no	no	11/24/2004	Branch
23.	Bull, Ronald	04-3585	CA	no	no	YES	11/24/2004	Branch
24.	Campos, Fernando	04-3585	CA	no	YES	YES	11/24/2004	Branch
25.	Castleberry, James	04-3594	AL	no	no	no	12/08/2004	Branch
26.	Clark, Glennon	04-3595	CO	no	YES	YES	12/06/2004	Branch
27.	Coccia, Debra	04-3596	CT	no	YES	YES	12/06/2004	Branch

28.	Cohen, Paul	04-3607	MD	no	YES	YES	12/06/2004	Branch
29.	Collins, Stanley	04-3594	AL	no	YES	YES	12/08/2004	Branch
30.	Cook, Margie	04-3592	TX	no	no	no	11/24/2004	Branch
31.	Cooper, Corinth	04-3602	OR	no	YES	YES	12/06/2004	Branch
32.	Criscuola, Regina	04-3598	NY	no	YES	YES	12/06/2004	Branch
33.	Cummings, Charles	04-3603	NC	no	YES	YES	12/06/2004	Branch
34.	Dadyala, Herbert	04-3607	MD	no	YES	YES	12/08/2004	Branch
35.	Daise, Elise	04-3609	FL	no	YES	YES	12/08/2004	Branch
36.	Davis, Michelle	04-3607	MA	no	YES	YES	12/06/2004	Branch
37.	Denslow, John	04-3609	FL	n/a	no	YES	12/06/2004	Branch
38.	Dietrich, Roberta	04-3623	?	no	YES	YES	12/08/2004	Branch
39.	Dixon, Thomas	04-3614	MS	no	YES	YES	12/06/2004	Branch
40.	Edwards, Ruby	04-3590	GA	no	YES	YES	12/06/2004	Branch
41.	Fatssel, John	04-3609	FL	n/a	no	YES	12/06/2004	Branch
42.	Faior, Paul	04-3621	PA	no	YES	YES	12/06/2004	Branch
43.	Field, Laura	04-3609	FL	no	YES	YES	12/06/2004	Branch
44.	Fisher, Donna	04-3618	DE	no	YES	YES	12/06/2004	Branch
45.	Flanagan, Juanita	04-3600	OK	no	YES	YES	12/06/2004	Branch
46.	Fountain, Theresia	04-3609	FL	no	YES	YES	12/08/2004	Branch
47.	Friedrich, John	04-3589	NJ	no	YES	YES	12/02/2004	Branch
48.	Garrigue, Michael	04-3585	CA	no	YES	YES	12/02/2004	Branch
49.	Gentry, Norma	04-3607	MA	no	YES	YES	12/06/2004	Branch
50.	Goad, Barbara	04-3603	NC	no	YES	YES	12/08/2004	Branch
51.	Godfrey, Lloyd	04-3607	MD	no	no	YES	12/02/2004	Branch
52.	Gottwalt, Leander	04-3601	IL	no	no	YES	12/02/2004	Branch
53.	Grieger, David	04-3594	AL	no	YES	YES	12/06/2004	Branch
54.	Haines, Monique	04-3609	FL	no	no	YES	12/06/2004	Branch
55.	Hakes, Robert	04-3609	FL	no	YES	YES	12/06/2004	Branch
56.	Harrington, Larry	04-3602	OR	no	YES	YES	12/06/2004	Branch
57.	Hathcox, Berry	04-3592	TX	no	no	YES	12/06/2004	Branch
58.	Havens, Carol	04-3626	KY	no	no	YES	12/06/2004	Branch
59.	Hayman, Winifred	04-3598	NY	no	no	YES	12/06/2004	Branch

60.	Hill, Patricia (Maria Hill on concordance)	04-3604	TN	no	YES	YES	12/06/2004	Branch
61.	Hinson, Beatrice	04-3603	NC	no	YES	YES	12/06/2004	Branch
62.	Hocamp, William	04-3602	OR	no	YES	YES	12/06/2004	Branch
63.	Holman, Hattie	04-3603	NC	no	no	YES	12/08/2004	Branch
64.	Huffman, Rochelle	04-3592	NC	no	YES	YES	12/06/2004	Branch
65.	Isaacs, Eula	04-3605	WV	no	YES	YES	12/08/2004	Branch
66.	Ivy, Mary	04-3592	TX	no	YES	YES	12/06/2004	Branch
67.	Jackson, Danny	04-3587	TX	no	YES	no	11/24/2004	Branch
68.	Jones, Theresa	04-3620	MI	no	YES	YES	12/02/2004	Branch
69.	Jones-Bell, Imogene	04-3592	TX	no	YES	no	11/24/2004	Branch
70.	Karren, Olivia	04-3606	DD	no	YES	YES	12/06/2004	Branch
71.	Kelch, Margaret	04-3607	MD	no	YES	YES	12/08/2004	Branch
72.	Kizmaric, Jane	04-3586	CA	no	YES	YES	11/24/2004	Branch
73.	Kupner, Larry	04-3593	NC	no	YES	YES	11/24/2004	Branch
74.	Kupner, Larry	04-3593	NC	no	no	no	12/08/2004	Branch
75.	Ledford, Randy	04-3593	NC	no	YES	YES	12/06/2004	Branch
76.	Liberatore, June	04-3598	NY	no	no	no	12/06/2004	Branch
77.	Libranda, Virgilio	04-3608	Guam	no	no	YES	12/06/2004	Branch
78.	Long, Glenda	04-3609	FL	no	YES	YES	12/08/2004	Branch
79.	Madrigal, Joe	04-3585	CA	no	YES	YES	12/06/2004	Branch
80.	Marmie, Vernette	04-3602	OR	no	no	YES	12/02/2004	Branch
81.	Mayeaux, Joyce	04-3611	LA	no	YES	YES	12/06/2004	Branch
82.	McDonald, Melba	04-3612	WA	no	YES	YES	12/06/2004	Branch
83.	Messineo, Frank	04-3598	NY	n/a	no	YES	12/06/2004	Branch
84.	Metz, Brenda	04-3616	OH	no	YES	YES	12/06/2004	Branch
85.	Middleton, Helen	04-3592	TX	no	YES	YES	11/24/2004	Branch
86.	Milano, Michael	04-3623	MN	no	no	YES	12/02/2004	Branch
87.	Moncada, Rueben	04-3623	?	no	YES	YES	12/02/2004	Branch
88.	Moore, Bernice	04-3586	CA	no	no	YES	12/06/2004	Branch
89.	Moore, Patricia	04-3592	TX	no	YES	YES	11/24/2004	Branch
90.	Morris, Mary	04-3589	NJ	no	YES	YES	11/24/2004	Branch

91.	Mullins, Anna	04-3626	KY	no	YES	YES	12/02/2004	Branch
92.	Murphy, Byron	04-3609	FL	no	YES	YES	12/02/2004	Branch
93.	Nelson, James	04-3624	MD	no	no	YES	12/02/2004	Branch
94.	Nivens, Josie	04-3607	MD	no	YES	YES	12/02/2004	Branch
95.	Norton, Wayne	04-3585	CA	no	YES	YES	12/06/2004	Branch
96.	Ochoa, Ruben	04-3587	TX	no	YES	YES	12/06/2004	Branch
97.	Oliver, Billy	04-3593	NC	no	no	YES	12/02/2004	Branch
98.	Pace, Linda	04-3586	CA	no	no	YES	12/06/2004	Branch
99.	Perez, Reynaldo	04-3587		no	YES	YES	12/08/2004	Branch
100.	Perkins, Roy	04-3585	CA	no	YES	YES	12/06/2004	Branch
101.	Phillips, Laura	04-3626	KY	no	YES	YES	12/02/2004	Branch
102.	Pietila, Georgia	04-3586	CA	no	YES	YES	12/06/2004	Branch
103.	Plumser, Barbara	04-3609	FL	no	YES	YES	12/02/2004	Branch
104.	Pytlak, James	04-3614	MS	no	no	no	11/24/2004	Branch
105.	Rash, Emma	04-3605	WV	no	YES	YES	12/02/2004	Branch
106.	Reed, Donald	04-3615	AR	no	YES	YES	12/02/2004	Branch
107.	Roberts, Melvina	04-3596		no	YES	YES	12/08/2004	Branch
108.	Roll, Cecelia	04-3601	IL	no	YES	YES	12/02/2004	Branch
109.	Romano, Julia	04-3589	NJ	no	no	YES	12/06/2004	Branch
110.	Rose, Yvonne	04-3607	MD	no	YES	YES	12/02/2004	Branch
111.	Ruiz, Danelle	04-3586	CA	no	YES	YES	12/08/2004	Branch
112.	Saul, Barbara	04-3616	OH	no	YES	YES	12/02/2004	Branch
113.	Schlatter, Dorothy	04-3586	CA	no	YES	YES	11/24/2004	Branch
114.	Schreiber, Nichole	04-3586		no	no	no	12/08/2004	Branch
115.	Schubert, Virginia	04-3593	NC	no	YES	YES	12/02/2004	Branch
116.	Selling, Gary	04-3585	CA	no	YES	YES	12/02/2004	Branch
117.	Smith, Mamie	04-3592	TX	no	YES	YES	12/08/2004	Branch
118.	Spreigen, Maurice	04-3598	NY	no	YES	YES	11/24/2004	Branch
119.	Spruill, Betty	04-3603	NC	no	YES	no	11/24/2004	Branch
120.	Stanko, Virginia	04-3586	CA	no	YES	YES	12/02/2004	Branch
121.	Stephens, Robert	04-3618	DE	no	no	YES	12/06/2004	Branch
122.	Sutton, Gary	04-3603	NC	no	YES	YES	12/08/2004	Branch

123.	Swann, Louis (Lewis)	04-3591	SC	no	YES	YES	12/02/2004	Branch
124.	Thomas, Aaron	04-3607	MD	no	YES	YES	12/08/2004	Branch
125.	Thomas, Kenneth	04-3585	CA	no	YES	YES	12/02/2004	Branch
126.	Thompson, Harold	04-3623	MN	no	YES	YES	11/24/2004	Branch
127.	Thompson, Sandy	04-3595	CO	no	no	YES	11/24/2004	Branch
128.	Thompson, Shirley	04-3609	FL	no	YES	YES	11/24/2004	Branch
129.	Thomton, Patricia	04-3586	CA	no	YES	YES	12/02/2004	Branch
130.	Tucker, Joseph Fredrick, III	04-3590	GA	no	YES	YES	11/24/2004	Branch
131.	Turner-Leannais, Marlene	04-3620	NM	no	YES	no	11/24/2004	Branch
132.	Tyson, Mark	04-3587	TX	no	YES	YES	12/02/2004	Branch
133.	Urich, Dennis	04-3607	MD	no	YES	YES	11/24/2004	Branch
134.	Veliquette, Max	04-3620	MI	no	no	YES	11/24/2004	Branch
135.	Weinhold, Ardella	04-3623	MN	no	no	YES	11/24/2004	Branch
136.	Wesley, John	04-3587	TX	no	YES	YES	12/02/2004	Branch
137.	Whited, Gary, Sr.	04-3624	MO	no	YES	YES	12/06/2004	Branch
138.	Wilcher, Mary	04-3590	GA	no	no	YES	11/24/2004	Branch
139.	Williams, Katherine	04-3625	ME	no	YES	YES	11/24/2004	Branch
140.	Williams, Rosetta	04-3626	KY	no	YES	YES	11/24/2004	Branch
141.	Worsley, Jewel	04-3591	SC	no	no	YES	12/02/2004	Branch
142.	Zumiga, Edna	04-3592	TX	no	YES	YES	12/02/2004	Branch
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EXHIBIT "2"

Plaintiff	Date PFS Sent	Authorizations Sent
Daryoush Behnia	November 23, 2004	Hippa No Psych
Catherine Benfield	December 3, 2004	Hippa No Psych, Workers Comp/SSN
Milton Brannon	December 3, 2004	
Kenneth Bryan	November 23, 2004	Hippa No Psych
Wayne Buck	December 8, 2004	Hippa No Psych
James Castleberry	December 7, 2004	
Herbert Dadyala	December 7, 2004	Hippa No Psych, Employment, Workers Comp/SSN
Thomas Dixon	December 3, 2004	Hippa Psych, No Psych, Workers Comp/SSN
Ruby Edwards	December 1, 2004	Hippa No Psych, Workers Comp/SSN
Laura Fields	December 3, 2004	Hippa No Psych, Workers Comp/SSN
Juanita Flanagan	December 3, 2004	Hippa No Psych, Employment, Workers Comp/SSN
Debashish Ghosh	December 8, 2004	Hippa No Psych, Workers Comp/SSN
Larry Harrington	December 3, 2004	Hippa No Psych, Hippa Psych
Maria Patricia Hill	December 3, 2004	Hippa No Psych, Employment, Workers Comp/SSN
Beatrice Hinson	December 3, 2004	Hippa No Psych, Employment, Workers Comp/SSN
Glenda Long	December 7, 2004	Hippa No Psych, Employment, Workers Comp/SSN
James Nelson	December 1, 2004	
Josie Nivens	December 1, 2004	Hippa No Psych, Employment, Workers Comp/SSN
James Pylate	November 23, 2004	
Emma Rash	December 1, 2004	Hippa No Psych, Employment, Workers Comp/SSN
Julia Romano	December 3, 2004	
Marlene Troy	December 8, 2004	Hippa No Psych, Employment, Workers Comp/SSN
Jewel Worsley	December 1, 2004	Hippa No Psych, Employment, Workers Comp/SSN